

Federal Communications Commission

DA 01-2146

2001 SEP 17 P 5:01

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
(Arnett, Oklahoma)	)	MM Docket No. 01-236
	)	RM-10242
)	
(Sayre, Oklahoma)	)	MM Docket No. 01-237
	)	RM-10243
)	
(Hebbbronville, Texas)	)	MM Docket No. 01-238
	)	RM-10244
)	
(Bruni, Texas)	)	MM Docket No. 01-239
	)	RM-10245
)	
(Rison, Arkansas)	)	MM Docket No. 01-240
	)	RM-10246
)	
(Oscoda, Michigan)	)	MM Docket No. 01-241
	)	RM-10247
)	
(Highland, Michigan)	)	MM Docket No. 01-242 ✓
	)	RM-10248

NOTICE OF PROPOSED RULE MAKING

Adopted: September 5, 2001

Released: September 14, 2001

Comment Date: November 5, 2001

Reply Comment Date: November 20, 2001

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a multiple docket Notice of Proposed Rule

Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule Making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MM Docket No. 01-236; RM-10242

Petitioner: Katherine Pyeatt
6655 Aintree Circle
Dallas, Texas 75214

Proposal: Allot Channel 285C2 at Arnett, Oklahoma, as the community's first local aural transmission service.¹

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Arnett, Oklahoma	----	285C2

Coordinates: 35-00-10 NL and 99-59-06 WL

Additional Information: This allotment requires a site restriction of 24 kilometers (14.9 miles) southwest.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

¹ In support of her proposal, petitioner states that Arnett is an incorporated city with a population that exceeds 545 persons (the 2000 U.S. Census population is 520). Arnett has its own mayor, post office, school district, volunteer fire department, and number of local churches.

B. MM Docket No. 01-237; RM-10243

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 269C2 at Sayre, Oklahoma, as the community's first local aural transmission service.²

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Sayre, Oklahoma	----	269C2

Coordinates: 35-17-28 NL and 99-38-23 WL

Additional Information: This allotment is located at city reference coordinates and requires no site restriction.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

C. MM Docket No. 01-238; RM-10244

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 254A at Hebbronville, Texas, as the community's second local FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Hebbronville, Texas	269A	254A, 269A

Coordinates: 27-20-15 NL and 98-46-45 WL

² In support of her proposal, petitioner states that Sayre is an incorporated and the county seat of Beckham County. Sayre has a population in excess of 4,100 persons (the 2000 U.S. Census is 4,114). Sayre has its own mayor, fire department, post office, school district, city hall and a number of local churches.

Additional Information: This allotment requires a site restriction of 10.6 kilometers (6.6 miles) west to avoid a short-spacing to the licensed site of Station KGBT-FM, Channel 253C, McAllen, Texas. Since Hebbronville is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

D. MM Docket No. 01-239; RM-10245

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 293A at Bruni, Texas, as the community's first local aural transmission service.³

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Bruni, Texas	---	293A

Coordinates: 27-29-12 NL and 98-51-00 WL

Additional Information: This allotment requires a site restriction of 6.8 kilometers (4.2 miles) north to avoid a short-spacing to the licensed site of Station KPSO-FM, Channel 292A, Falfurria, Texas, the construction permit site of Station KTKY(FM), Channel 293C2, Taft, Texas, and the allotment site for Channel 294A at El Lobo, Texas. Since Bruni is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

³ In support of her proposal, petitioner states that Bruni is a Census Designated Place with a population of 581 persons (the 2000 U.S. Census population is 412). Bruni has its own post office, middle school, high school, the Bruni Country Store, the Bruni Rural Water Supply Corporation and the Bruni Service Station.

E. MM Docket No. 01-240; RM-10246

Petitioner: Charles Crawford
4553 Bordeaux Ave
Dallas, Texas 75205

Proposal: Allot Channel 255A at Rison, Arkansas, as the community's first local aural transmission service.⁴

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Rison, Arkansas	---	255A

Coordinates: 33-56-30 NL and 92-12-13 WL

Additional Information: This allotment requires a site restriction of 2.2 kilometers (1.4 miles) southwest to avoid a short-spacing to the licensed site of Station KZYP(FM), Channel 257A, Pine Bluff, Arkansas.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

F. MM Docket No. 01-241; RM-10247

Petitioner: Charles Crawford
4553 Bordeaux Ave.
Dallas, Texas 75205

Proposal: Allot Channel 243A at Oscoda, Michigan, as the community's third local FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Oscoda, Michigan	239C2, 264C3	239C2, 243A, 264C3

Coordinates: 44-25-48 NL and 83-19-36 WL

⁴ In support of his proposal, petitioner states that Rison is an incorporated city with a population in excess of 1,340 persons (the 2000 U.S. Census population is 1,271) . Rison has its own mayor, school system, post office, fire department, city hall and a number of local churches.

Additional Information: This allotment is located at city reference coordinates and does not require a site restriction. Since Oscoda is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been requested.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

G. MM Docket No. 01-242; RM-10248

Petitioner: Charles Crawford
4553 Bordeaux Ave.
Dallas, Texas 75205

Proposal: Allot Channel 236A at Highland, Michigan, as the community's first local aural transmission service.⁵

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Highland, Michigan	--	236A

Coordinates: 44-15-47 NL and 85-20-27 WL

Additional Information: This allotment is located at city reference coordinates and does not require a site restriction. Since Highland is located within 320 kilometers (200 miles) of the U.S.- Canadian border, concurrence of the Canadian government has been requested.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket Notice of Proposed Rule Making should reference only the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

⁵ In support of his proposal, petitioner states that Highland is an incorporated township with a 2000 U.S. Census population of 19,169 persons. Highland has its own township supervisor, school system, post office, fire department, and a number of local churches.

4. Interested parties may file comments on or before **November 5, 2001**, and reply comments on or before **November 20, 2001**, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules. 46 FR 11549 (February 9, 1981).

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room CY-A257) at its headquarters, 445 12th Street, S.W., Washington, D.C. 20554.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall